IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.M. No. 888 of 2007.

Judgement reserved on: .

Date of decision: 17.12.2007.

Som Dutt ….. **Petitioner.**

Vs.

State of H.P. …. **Respondent.**

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?[1]

For the petitioner : **Mr. Bhupinder Ahuja, Advocate.**

For the Respondent : **Mr. M.L.Chauhan, Addl. Advocate General.**

Kuldip Singh, Judge (oral).

Heard and gone through the record.

2. This is an application, under Section 439 of the Code of Criminal Procedure, for releasing the petitioner on bail in case FIR No. 521 of 2006, dated 11.10.2006, registered at Police Station, Kullu, under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the Act).

3. The learned counsel for the petitioner has submitted that petitioner has been falsely implicated in the case. There is no legal evidence to connect the petitioner with the recovery of 1.900 Kg. charas from Sukh Ram or that petitioner has supplied this charas to Chhape Ram. The learned counsel has submitted that bar of Section 37 of the Act, is not applicable in the present case, inasmuch as,

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Whether the reporters of the local papers may be allowed to see the Judgment?

there are reasonable grounds for believing that petitioner is not guilty of any offence and that he is not likely to commit any offence while on bail. It is not the case of the prosecution that petitioner is involved in similar cases earlier. The petitioner was arrested on 13.10.2006. Earlier he filed a bail application, which was rejected by the learned Special Judge, Fast Track Court, Kullu, on 27.4.2007

4. The learned Additional Advocate General has submitted the status report of the case. He has opposed the bail application and submitted that petitioner supplied the charas to Chhape Ram and Chhape Ram supplied that charas to Sukh Ram and ultimately 1.900 Kg. charas was recovered from Sukh Ram on 11.10.2006. He has submitted that it has come in investigation that Sukh Ram made a disclosure statement and on the basis of that statement, the place was identified from where he purchased the charas. He has submitted that it has also come in evidence that Sukh Ram purchased this charas from Chhape Ram. It is also the case of the prosecution that Chhape Ram handed over Rs. 18,000/- and a mobile set to Gautam for further handing over Rs. 18,000/- and mobile set to petitioner for contacting Chhape Ram. Said Gautam ultimately handed over Rs.18,000/- to petitioner and petitioner handed over one envelop to Gautam, which he gave to Chhape Ram. The learned Additional Advocate General has heavily relied on the statement of Gautam in support of prosecution case that petitioner is involved in the case. According to him, the recovered charas has originated from petitioner.

5. I have gone through the statement of Gautam. I am purposely not commenting on the merits of the statement of Gautam. Looking into the facts and circumstances of the case, prima facie, I am of the view that bar of Section 37 of the Act, is not applicable in the present case for releasing the petitioner on bail. Gautam has stated with respect to only handing over of envelop to Chhape Ram and nothing more. He has not stated anything about charas. It is not the case of the prosecution that petitioner was earlier involved in some similar case, no material has been placed on record to show that petitioner is likely to commit any offence while on bail. The case of the petitioner is absolutely different from the case of Chhape Ram and Sukh Ram. In the facts and circumstances of the case and after looking into the legal evidence on record, the petitioner has made out a case for bail. Accordingly, the application is allowed and the petitioner is ordered to be released on bail in case FIR No. 521 of 2006, dated 11.10.2006, registered at Police Station, Kullu, under Sections 20 and 29 of the Act, on his furnishing personal bond in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of the Special Judge, Fast Track Court, Kullu with the conditions that he shall not influence the prosecution witness or tamper with the prosecution evidence in any manner.

6. Any observation made herein above shall not be construed as an expression of opinion on the merits of the case.

7. Dasti copy on usual terms.

December 17, 2007. **(Kuldip Singh)**
(*Hem*) **Judge.**